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July 16, 2012

VIA EMAIL AND FIRST-CLASS MAIL

Kathryn Levy  
Deputy City Attorney  
P.O. Box 2248  
Albuquerque, NM 87103  
Fax: (505) 768-4525

RE: *Bell v. Economidy*, No. 11cv907 JH-ACT

Dear Kathy:

We have not yet received any answers, responses, or objections to Plaintiff's Second Set of Interrogatories and Requests for Production to Defendants Byron "Trey" Economidy III and the City of Albuquerque served on May 30, 2012. We have not received any of the protected records referenced in the Stipulated Protective Order (Doc. 30) filed on June 19, 2012. And we have not received satisfactory answers and responses to Plaintiff's First Set of Interrogatories and Requests for Production to Defendant Byron "Trey" Economidy III.

Accordingly, we must again raise the subject of filing a motion to compel answers and responses to the above discovery requests and the Stipulated Protective Order. Please consider this letter our second attempt to confer and compromise in good faith in order to obtain the requested information without a filing such a motion.


Our responses to your objections to Plaintiff's First Set of Interrogatories and Requests for Production were stated in our previous letter to you dated May 29, 2012. While we hoped to resolve at least some of those objections through the Stipulated Protective Order, you have neither produced any records pursuant to that order nor provided any justification for the delay in doing so. Similarly, you have not served any objections to Plaintiff's Second Set of Interrogatories and Requests for Production within the time period allotted by Rules 33(b)(2) and 34(b)(2)(A). Any objections you might have to Plaintiff's second set of discovery requests are therefore waived under the applicable case law interpreting these rules. *See Caudle v. Dist. of Columbia*, 263 F.R.D. 29, 32-33 (D.D.C. 2009); *Frontier-Kemper Constructors, Inc. v. Elk Run Coal Co.*, 246 F.R.D. 522, 526-32 (S.D. W. Va. 2007); *Essex Ins. Co. v. Neely*, 236 F.R.D. 287, 290-91 (N.D. W. Va. 2006); *Swackhammer v. Sprint Corp. PCS*, 225 F.R.D. 658, 665 (D. Kan. 2004); *Starlight Int'l, Inc. v. Herlihy*, 181 F.R.D. 494, 496-97 (D. Kan. 2004).

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Nevertheless, we are willing to work with you on arrangements to produce the requested information in the most expedient manner possible and address any concerns you may have. But again we must be mindful of the case-management deadlines the Court has set in this case. In order to comply with these deadlines, we will have to proceed with our motion to compel if we do not receive a satisfactory response by the close of business on Thursday, July 19, 2012.

Please let me know your position with respect to these discovery issues as soon as possible. We will, of course, revisit the matter and tailor our motion accordingly depending on what we receive from you before the above date.

Sincerely,



Arne R. Leonard